

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ERIC DAVID BAIR,

Plaintiff,

v.

KIKOLO KIJAKAZI, Acting  
Commissioner of Social Security,<sup>1</sup>

Defendant.

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: CIVIL ACTION NO. 3:16-CV-1331  
: (JUDGE MARIANI)  
: (Magistrate Judge Arbuckle)  
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FILED  
SCRANTON

MAR 08 2022

Per   
DEPUTY CLERK

ORDER

AND NOW, THIS 8<sup>th</sup> DAY OF MARCH 2022, upon *de novo* review of

Magistrate Judge William I. Arbuckle's Report and Recommendation ("R&R") (Doc. 16),

Plaintiff's objections thereto (Doc. 17) and other relevant documents, **IT IS HEREBY**

**ORDERED THAT:**

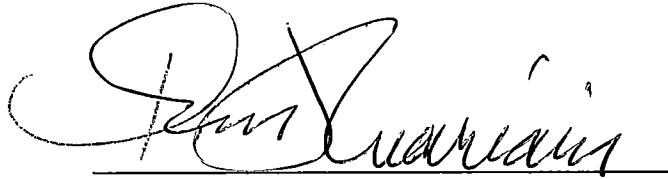
1. The R&R (Doc. 16) is **ADOPTED** for the reasons set forth therein.
2. Plaintiff's objections (Doc. 17) are **OVERRULED**. The Court does not find that the Magistrate Judge erred in concluding there was substantial evidence to support the Administrative Law Judge's rejection of the opinion of treating physician, Dr. Kathy

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. She is automatically substituted as a party pursuant to Fed. R. Civ. P. 25(d) (providing that when a public officer sued in his or her official capacity ceases to hold office while the action is pending, "the officer's successor is automatically substituted as a party."); *see also* 42 U.S.C. § 405(g) ("Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.").

Nase.<sup>2</sup> The Court does not find that the Magistrate Judge erred in concluding that Plaintiff's allegedly erroneous step two determination would be harmless error.

3. Plaintiff's appeal of the Acting Commissioner's decision (Doc. 1) is **DENIED**.
4. The Clerk of Court is directed to **ENTER JUDGMENT** in favor of the Acting Commissioner of Social Security and against Plaintiff Eric David Bair.
5. The Clerk of Court is directed to **CLOSE THIS CASE**.

A handwritten signature in black ink, appearing to read 'Robert D. Mariani', is written over a horizontal line.

Robert D. Mariani  
United States District Judge

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<sup>2</sup> Though Plaintiff's objection refers to "treating physicians" (Doc. 17 at 1 ¶ 2), the brief in support of objections addresses only the opinion of Dr. Kathy Nase, Plaintiff's primary care provider. (See Doc. 18 at 2-3.)